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Attorneys for Defendant
eBAGS, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VALLAVISTA CORPORATION, a
California corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware
corporation; TARGET CORPORATION, a
Minnesota corporation; EBAGS, INC., a
Colorado corporation; EMPORIUM
LEATHER COMPANY, INC., a New Jersey
corporation, doing business as ROYCE
LEATHER; and FASHION HANDBAGS,
INC., a Nevada corporation, doing business as
BO BO BAGS,

Defendant.

Case No. C07-05360 PVT

ANSWER OF DEFENDANT EBAGS, INC.;
REQUEST FOR JURY TRIAL

Defendant eBags, Inc. (hereinafter referred to as "eBags"), through the undersigned counsel, hereby responds to the Complaint of Plaintiff Vallavista Corporation in the above-captioned action as follows:

I. PARTIES

1. eBags lacks information or belief sufficient to admit or deny the allegations in Paragraph 1 of the Complaint, and on that basis denies them.

2. eBags lacks information or belief sufficient to admit or deny the allegations in Paragraph 2 of the Complaint, and on that basis denies them.

3. eBags lacks information or belief sufficient to admit or deny the allegations in Paragraph 3 of the Complaint, and on that basis denies them.

4. eBags denies that it is organized under the laws of the State of Colorado. eBags admits the remaining allegations of Paragraph 4 of the Complaint.

5. eBags lacks information or belief sufficient to admit or deny the allegations in Paragraph 5 of the Complaint, and on that basis denies them.

6. eBags lacks information or belief sufficient to admit or deny the allegations in Paragraph 6 of the Complaint, and on that basis denies them.

II. JURISDICTION

7. Paragraph 7 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an answer is required, eBags denies the allegations in Paragraph 7 of the Complaint.

8. Paragraph 8 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an answer is required, eBags denies the allegations in Paragraph 8 of the Complaint.

III. INTRADISTRICT ASSIGNMENT

9. eBags denies that a substantial part of the alleged events giving rise to this action occurred in Contra Costa County, California. The remainder of Paragraph 9 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an answer is required, eBags denies the allegations in Paragraph 9 of the Complaint.

IV. ALLEGATIONS COMMON TO ALL COUNTS

10. eBags denies committing unlawful activities and using the name and mark TAXI WALLET®. The remainder of Paragraph 10 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an answer is required, eBags denies the allegations in Paragraph 10 of the Complaint.

1 11. eBags admits that Trademark Registration No. 2,008,495 was issued on October
2 15, 1996 for a mark consisting of a design plus the words, letters, and/or numbers "TAXI
3 WALLET." eBags further admits that the goods claimed under Registration No. 2,008,495
4 consist of "wallets, coin wallets, billfolds, credit card wallets, coin purses, change purses, coin
5 pocket billfolds, [and] business card wallets." eBags lacks information or belief sufficient to
6 admit or deny the remaining allegations in Paragraph 11 of the Complaint, and on that basis
7 denies them.

8 12. eBags admits that Trademark Registration No. 2,008,495 is uncanceled. The
9 remainder of Paragraph 12 of the Complaint consists of legal conclusions to which no answer is
10 required, but to the extent an answer is required, and except as expressly admitted herein, eBags
11 denies the allegations in Paragraph 12 of the Complaint.

12 13. eBags denies the allegations in Paragraph 13 of the Complaint.

13 14. eBags lacks information or belief sufficient to admit or deny the factual allegations
14 in Paragraph 16 of the Complaint, and on that basis denies them. The remainder of Paragraph 16
15 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an
16 answer is required, eBags denies the allegations in Paragraph 16 of the Complaint. In addition,
17 the definition of "Marks" results in ambiguity since Reg. No. 2,008,495 is a stylized logotype
18 registration which differs from the word mark TAXI WALLET.

19 15. eBags denies the allegations in Paragraph 15 of the Complaint.

20 16. eBags denies the allegations in Paragraph 16 of the Complaint..

21 17. eBags lacks information or belief sufficient to admit or deny the allegations in
22 Paragraph 17 of the Complaint, and on that basis denies them.

23 18. eBags lacks information or belief sufficient to admit or deny the allegations in
24 Paragraph 18 of the Complaint, and on that basis denies them.

25 19. eBags lacks information or belief sufficient to admit or deny the allegations in
26 Paragraph 19 of the Complaint, and on that basis denies them.

27 20. eBags lacks information or belief sufficient to admit or deny the factual allegations
28 in Paragraph 20 of the Complaint, and on that basis denies them. The remainder of Paragraph 20

1 of the Complaint consists of legal conclusions to which no answer is required, but to the extent an
 2 answer is required, eBags denies the allegations in Paragraph 20 of the Complaint.

3 21. eBags lacks information or belief sufficient to admit or deny the allegations in
 4 Paragraph 21 of the Complaint, and on that basis denies them.

5 22. eBags denies that it has sought to compete unfairly with Plaintiff. eBags lacks
 6 information or belief sufficient to admit or deny the remaining factual allegations in Paragraph 22
 7 of the Complaint, and on that basis denies them. The remainder of Paragraph 22 of the Complaint
 8 consists of legal conclusions to which no answer is required, but to the extent an answer is
 9 required, eBags denies the allegations in Paragraph 22 of the Complaint.

10 23. eBags denies that it has misappropriated the marks of Plaintiff. eBags lacks
 11 information or belief sufficient to admit or deny the remaining factual allegations in Paragraph 23
 12 of the Complaint, and on that basis denies them. The remainder of Paragraph 23 of the Complaint
 13 consists of legal conclusions to which no answer is required, but to the extent an answer is
 14 required, eBags denies the allegations in Paragraph 23 of the Complaint.

15 V. CLAIMS FOR RELIEF

16 COUNT ONE: TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114

17 As to All Defendants:

18 24. eBags incorporates by reference its responses to Paragraphs 1 through 23 as set
 19 forth above.

20 25. This paragraph is unanswerable as it is indefinite. eBags denies using
 21 designations identical or substantially similar to the stylized design mark TAXI WALLET® for
 22 the sale, offer for sale, advertisement, or promotion of wallets.

23 26. eBags denies the allegations in Paragraph 26 of the Complaint.

24 27. eBags denies the allegations in Paragraph 27 of the Complaint.

25 28. eBags denies the allegations in Paragraph 28 of the Complaint.

26 As to Defendant Bo Bo Bags:

27 29. The allegations of this paragraph are not directed at eBags and require no response
 28 by eBags.

1 30. The allegations of this paragraph are not directed at eBags and require no response
2 by eBags.

3 31. The allegations of this paragraph are not directed at eBags and require no response
4 by eBags.

5 32. The allegations of this paragraph are not directed at eBags and require no response
6 by eBags.

7 33. The allegations of this paragraph are not directed at eBags and require no response
8 by eBags.

9 **As to Defendant Royce:**

10 34. The allegations of this paragraph are not directed at eBags and require no response
11 by eBags.

12 35. The allegations of this paragraph are not directed at eBags and require no response
13 by eBags.

14 36. The allegations of this paragraph are not directed at eBags and require no response
15 by eBags.

16 37. The allegations of this paragraph are not directed at eBags and require no response
17 by eBags.

18 38. The allegations of this paragraph are not directed at eBags and require no response
19 by eBags.

20 39. The allegations of this paragraph are not directed at eBags and require no response
21 by eBags.

22 40. The allegations of this paragraph are not directed at eBags and require no response
23 by eBags.

24 **As to Defendant Target:**

25 41. The allegations of this paragraph are not directed at eBags and require no response
26 by eBags.

27 42. The allegations of this paragraph are not directed at eBags and require no response
28 by eBags.

1 43. The allegations of this paragraph are not directed at eBags and require no response
2 by eBags.

3 44. The allegations of this paragraph are not directed at eBags and require no response
4 by eBags.

5 45. The allegations of this paragraph are not directed at eBags and require no response
6 by eBags.

7 46. The allegations of this paragraph are not directed at eBags and require no response
8 by eBags.

9 47. The allegations of this paragraph are not directed at eBags and require no response
10 by eBags.

11 48. The allegations of this paragraph are not directed at eBags and require no response
12 by eBags.

13 **As to Defendant Amazon:**

14 49. The allegations of this paragraph are not directed at eBags and require no response
15 by eBags.

16 50. The allegations of this paragraph are not directed at eBags and require no response
17 by eBags.

18 51. The allegations of this paragraph are not directed at eBags and require no response
19 by eBags.

20 52. The allegations of this paragraph are not directed at eBags and require no response
21 by eBags.

22 53. The allegations of this paragraph are not directed at eBags and require no response
23 by eBags.

24 54. The allegations of this paragraph are not directed at eBags and require no response
25 by eBags.

26 **As to Defendant eBags:**

27 55. eBags admits the allegations of Paragraph 55 of the Complaint.
28

1 56. This paragraph is unanswerable as it is indefinite and contains undefined and
2 ambiguous terms. eBags lacks information or belief sufficient to admit or deny the allegations in
3 Paragraph 56 of the Complaint, and on that basis denies them.

4 57. This paragraph is unanswerable as it is indefinite and contains undefined and
5 ambiguous terms. eBags lacks information or belief sufficient to admit or deny the allegations in
6 Paragraph 57 of the Complaint, and on that basis denies them.

7 58. eBags admits that it sells products that are delivered by Bo Bo Bags. eBags denies
8 the remaining allegations of Paragraph 58 of the Complaint.

9 59. eBags lacks information or belief sufficient to admit or deny whether Plaintiff
10 authorized any of eBags' acts described herein, denies that any authorization by Plaintiff is
11 required, and denies the remaining allegations of Paragraph 59 of the Complaint.

12 60. eBags denies the allegations in Paragraph 60 of the Complaint.

13 **COUNT TWO: UNFAIR COMPETITION AND FALSE DESIGNATION**
14 **OF ORIGIN UNDER 15 U.S.C. § 1125(A)**
 (AS TO ALL DEFENDANTS)

15 61. eBags incorporates by reference its responses to Paragraphs 1 through 60 as set
16 forth above.

17 62. eBags denies the allegations in Paragraph 62 of the Complaint.

18 63. eBags denies the allegations in Paragraph 63 of the Complaint.

19 64. eBags denies the allegations in Paragraph 64 of the Complaint.

20 **COUNT THREE: TRADEMARK DILUTION UNDER 15 U.S.C. § 1125(C)**
21 **(AS TO ALL DEFENDANTS)**

22 65. eBags incorporates by reference its responses to Paragraphs 1 through 64 as set
23 forth above.

24 66. eBags denies the allegations in Paragraph 66 of the Complaint.

25 67. eBags denies the allegations in Paragraph 67 of the Complaint.

26 68. eBags denies the allegations in Paragraph 68 of the Complaint.

27 69. eBags denies the allegations in Paragraph 69 of the Complaint.

28 70. eBags denies the allegations in Paragraph 70 of the Complaint.

**COUNT FOUR: COMMON LAW UNFAIR COMPETITION
(AS TO ALL DEFENDANTS)**

71. eBags incorporates by reference its responses to Paragraphs 1 through 70 as set forth above.

72. eBags denies the allegations in Paragraph 72 of the Complaint.

73. eBags denies the allegations in Paragraph 73 of the Complaint.

74. eBags denies the allegations in Paragraph 74 of the Complaint.

**COUNT FIVE: UNFAIR COMPETITION UNDER CALIFORNIA BUSINESS
AND PROFESSIONS CODE SECTION 17200 *ET SEQ.*
(AS TO ALL DEFENDANTS)**

75. eBags incorporates by reference its responses to Paragraphs 1 through 74 as set forth above.

76. eBags denies the allegations in Paragraph 76 of the Complaint.

77. eBags denies the allegations in Paragraph 77 of the Complaint..

AFFIRMATIVE DEFENSES

**FIRST AFFIRMATIVE DEFENSE – ALL COUNTS
(Failure to State a Claim)**

1. The Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE – ALL COUNTS
(Laches)**

2. The claims set forth in the Complaint are barred by the equitable doctrines of laches and/or estoppel.

**THIRD AFFIRMATIVE DEFENSE – ALL COUNTS
(Waiver / Acquiescence)**

3. The claims set forth in the Complaint are barred by the equitable doctrines of waiver and/or acquiescence.

FOURTH AFFIRMATIVE DEFENSE – COUNTS I-III
(Invalidity / Genericness)

4. Plaintiff's alleged trademarks are void, invalid, without secondary meaning, or generic.

FIFTH AFFIRMATIVE DEFENSE – COUNTS I-III
(Functionality)

5. Plaintiff's alleged trade dress is functional.

SIXTH AFFIRMATIVE DEFENSE – COUNTS I-III
(Abandonment)

6. Plaintiff's alleged trademarks have been abandoned.

SEVENTH AFFIRMATIVE DEFENSE – COUNTS I-III
(Lack of Secondary Meaning)

7. Plaintiff's alleged trademarks have achieved no secondary meaning.

EIGHTH AFFIRMATIVE DEFENSE – ALL COUNTS
(Defective Complaint)

8. Plaintiff's Complaint violates Rule 8(a)(2) of the Federal Rules of Civil Procedure in that it does not contain "a short and plain statement of the claims[s]."

NINTH AFFIRMATIVE DEFENSE – ALL COUNTS
(Statute of Limitations)

9. The claims set forth in the Complaint are barred by the applicable statutes of limitation.

TENTH AFFIRMATIVE DEFENSE – EQUITABLE RELIEF
(Unclean Hands)

10. Plaintiff's request for equitable relief is barred, in whole or in part, by the equitable doctrine of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE – EQUITABLE RELIEF
(Adequate Legal Remedy)

11. Each and every request for injunctive relief in the Complaint is barred by the adequate legal remedy doctrine, in that, to the extent Plaintiff prevails on any of its claims, money damages would be an adequate legal remedy.

TWELFTH AFFIRMATIVE DEFENSE – ALL COUNTS
(Other Defenses)

12. eBags presently has insufficient knowledge or information upon which to form a belief as to whether eBags may have additional, as yet unstated, separate defenses available. Accordingly, eBags reserves the right to assert additional separate defenses to the Complaint in the event that further discovery or inquiry indicates they are appropriate.

WHEREFORE, eBags prays for judgment as follows:

1. That Plaintiff be awarded nothing against eBags on its complaint.
2. That this action be dismissed as against eBags.
3. That eBags be awarded all of its costs incurred herein.

Dated: November 29 2007

COOLEY GODWARD KRONISH LLP



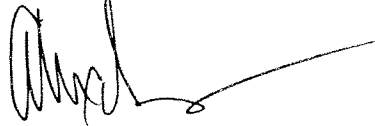
Alex C. Sears
Attorneys for Defendant
eBAGS, Inc.

DEMAND FOR JURY TRIAL

Defendant eBags, Inc. hereby demands a jury trial.

Dated: November 29, 2007

COOLEY GODWARD KRONISH LLP



Alex C. Sears
Attorneys for Defendant
eBAGS, Inc.